

**DECLARATION
FOR UTILITY OR DESIGN
PATENT APPLICATION
(37 CFR 1.63)**

- ☒ Declaration Submitted with Initial Filing, OR
☐ Declaration Submitted after Initial Filing
(surcharge (37 CFR 1.16 (e)) required)

Attorney Docket Number 1726.7220801
First Named Inventor Zerbe, et al.
COMPLETE IF KNOWN
Application Number
Filing Date
Group Art Unit
Examiner Name

As a below named inventor, I hereby declare that:

My residence, post office address, and citizenship are as stated below next to my name.

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled:

**METHOD AND APPARATUS FOR EVALUATING AND OPTIMIZING A
SIGNALING SYSTEM**

the specification of which:

- ☒ is attached hereto.
☐ was filed on (MM/DD/YYYY) as United States Application Number or PCT International Application Number
and was amended on (MM/DD/YYYY) (if applicable).

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment specifically referred to above.

I acknowledge the duty to disclose information which is material to patentability as defined in 37 CFR 1.56.

I hereby claim foreign priority benefits under 35 U.S.C. 119(a)-(d) or 365(b) of any foreign application(s) for patent or inventor's certificate, or 365(a) of any PCT international application which designated at least one country other than the United States of America, listed below and have also identified below, by checking the box, any foreign application for patent or inventor's certificate, or of any PCT international application having a filing date before that of the application on which priority is claimed.

| Prior Foreign Application Number(s) | Country | Foreign Filing Date (MM/DD/YYYY) | Priority Not Claimed | Certified Copy Attached? | |
|--|---------|-------------------------------------|--------------------------|--------------------------|--------------------------|
| | | | | YES | NO |
| | | | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| | | | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

- ☐ Additional foreign application numbers are listed on a supplemental priority data sheet PTO/SB/02B attached hereto.

I hereby claim the benefit under 35 U.S.C. 119(e) of any United States provisional application(s) listed below.

| Application Number(s) | Filing Data (MM/DD/YYYY) |
|-----------------------|--------------------------|
| | |
| | |

- ☐ Additional provisional application numbers are listed on a supplemental priority data sheet PTO/SB/02B attached hereto.

I hereby claim the benefit under 35 U.S.C. 120 of any United States application(s), or 365(c) of any PCT international application designating the United States of America, listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States or PCT International application in the manner provided by the first paragraph of 35 U.S.C. 112, I acknowledge the duty to disclose information which is material to patentability as defined in 37 CFR 1.56 which became available between the filing date of the prior application and the national or PCT international filing date of this application.

| U.S. Parent Application or PCT Parent Number | Parent Filing Date (MM/DD/YYYY) | Parent Patent Number (if applicable) |
|---|------------------------------------|---|
| | | |
| | | |

- ☐ Additional U.S. or PCT international application numbers are listed on a supplemental priority data sheet PTO/SB/02B attached hereto.

As a named inventor, I hereby appoint the persons listed below as my respective patent attorneys and patent agents, with full power of substitution and revocation, to prosecute this application and to transact all business in the Patent and Trademark Office connected herewith:

| | |
|-------------------------------------|--------------------------------------|
| Neil A. Steinberg, Reg. No. 34,735 | Ross D. Snyder, Reg. No. 37,730 |
| Paul M. Anderson, Reg. No. 39,896 | Charles E. Shemwell, Reg. No. 40,171 |
| Paula J. Lagattuta, Reg. No. 40,691 | |

Direct all correspondence to:

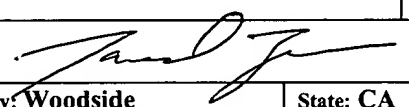
Ross D. Snyder
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Austin Tx 78746

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001 and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

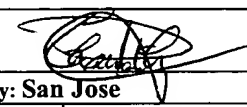
Name of Sole or First Inventor:

☐ A petition has been filed for this unsigned inventor

| | | | |
|--|---|------------------------|-------------|
| Given Name (first and middle [if any]) | | Family Name or Surname | |
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| Inventor's Signature |  | Date | 10/8/01 |
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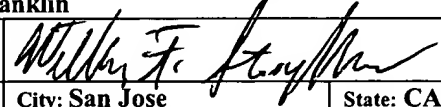
Name of Additional Joint Inventor:

☐ A petition has been filed for this unsigned inventor

| | | | |
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| Given Name (first and middle [if any]) | | Family Name or Surname | |
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Name of Additional Joint Inventor:

☐ A petition has been filed for this unsigned inventor

| | | | |
|--|---|------------------------|-------------|
| Given Name (first and middle [if any]) | | Family Name or Surname | |
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| Inventor's Signature |  | Date | 10/8/01 |
| Residence | City: San Jose | State: CA | Country: US |
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| City: San Jose | State: CA | ZIP: 95118 | Country: US |

☐ Additional inventors are being named on the _____ supplemental Additional Inventor(s) sheet(s) PTO/SB/02A attached hereto.

APPENDIX A

Title 37, Code of Federal Regulations, Section 1.56
Duty to Disclose Information Material to Patentability

(a) A patent by its very nature is affected with a public interest. The public interest is best served, and the most effective patent examination occurs when, at the time an application is being examined, the Office is aware of and evaluates the teachings of all information material to patentability. Each individual associated with the filing and prosecution of a patent application has a duty of candor and good faith in dealing with the Office, which includes a duty to disclose to the Office all information known to that individual to be material to patentability as defined in this section. The duty to disclosure information exists with respect to each pending claim until the claim is cancelled or withdrawn from consideration, or the application becomes abandoned. Information material to the patentability of a claim that is cancelled or withdrawn from consideration need not be submitted if the information is not material to the patentability of any claim remaining under consideration in the application. There is no duty to submit information which is not material to the patentability of any existing claim. The duty to disclose all information known to be material to patentability is deemed to be satisfied if all information known to be material to patentability of any claim issued in a patent was cited by the Office or submitted to the Office in the manner prescribed by §§ 1.97(b)-(d) and 1.98. However, no patent will be granted on an application in connection with which fraud on the Office was practiced or attempted or the duty of disclosure was violated through bad faith or intentional misconduct. The Office encourages applicants to carefully examine:

(1) Prior art cited in search reports of a foreign patent office in a counterpart application, and

(2) The closest information over which individuals associated with the filing or prosecution of a patent application believe any pending claim patentably defines, to make sure that any material information contained therein is disclosed to the Office.

(b) Under this section, information is material to patentability when it is not cumulative to information already of record or being made of record in the application, and

(1) It establishes, by itself or in combination with other information, a prima facie case of unpatentability of a claim; or

(2) It refutes, or is inconsistent with, a position the applicant takes in:

(i) Opposing an argument of unpatentability relied on by the Office, or

(ii) Asserting an argument of patentability.

A prima facie case of unpatentability is established when the information compels a conclusion that a claim is unpatentable under the preponderance of evidence, burden-of-proof standard, giving each term in the claim its broadest reasonable construction consistent with the specification, and before any consideration is given to evidence which may be submitted in an attempt to establish a contrary conclusion of patentability.

(c) Individuals associated with the filing or prosecution of a patent application within the meaning of this section are:

(1) Each inventor named in the application;

(2) Each attorney or agent who prepares or prosecutes the application; and

(3) Every other person who is substantively involved in the preparation or prosecution of the application and who is associated with the inventor, with the assignee or with anyone to whom there is an obligation to assign the application.

(d) Individuals other than the attorney, agent or inventor may comply with this section by disclosing information to the attorney, agent, or inventor.